

FIRST REGULAR SESSION

SENATE BILL NO. 372

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 28, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1839S.011

AN ACT

To repeal sections 160.045, 163.172, 168.102, 168.221, and 168.410, RSMo, and to enact in lieu thereof nineteen new sections relating to teacher continuing contracts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 160.045, 163.172, 168.102, 168.221, and 168.410, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 160.045, 163.172, 168.102, 168.221, 168.410, 168.1000, 168.1002, 168.1003, 168.1004, 168.1006, 168.1008, 168.1009, 168.1010, 168.1012, 168.1020, 168.1022, 168.1026, 168.1028, and 168.1030, to read as follows:

160.045. 1. Each public school shall develop standards for teaching no later than June 30, 2010. The standards shall be applicable to all public schools, including public charter schools operated by the board of a school district.

2. Teaching standards **for purposes of teacher evaluation under section 168.1026** shall include, but not be limited to, the following:

(1) Students actively participate and are successful in the learning process;

(2) Various forms of assessment are used to monitor and manage student learning;

(3) The teacher is prepared and knowledgeable of the content and effectively maintains students' on-task behavior;

(4) The teacher uses professional communication and interaction with the school community;

(5) The teacher keeps current on instructional knowledge and seeks and explores changes in teaching behaviors that will improve student performance;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 and

17 (6) The teacher acts as a responsible professional in the overall mission
18 of the school.

19 3. The department may provide assistance to public schools in developing
20 these standards upon request.

21 **4. The Missouri teaching standards professional continuum**
22 **adopted by the state board of education shall form the basis of fifty**
23 **percent of the score on a teacher's evaluation under section 168.1026.**

163.172. 1. In school year 1994-95 and thereafter until school year
2 2006-07, the minimum teacher's salary shall be eighteen thousand
3 dollars. Beginning in school year 2006-07, the minimum teacher's salary shall
4 be twenty-two thousand dollars; in school year 2007-08, the minimum teacher's
5 salary shall be twenty-three thousand dollars; in school year 2008-09, the
6 minimum teacher's salary shall be twenty-four thousand dollars; in school year
7 2009-10 and thereafter, the minimum teacher's salary shall be twenty-five
8 thousand dollars. [Beginning in the school year 1996-97 until school year 2006-
9 07, for any full-time teacher with a master's degree and at least ten years'
10 teaching experience in a public school or combination of public schools, the
11 minimum salary shall be twenty-four thousand dollars. Beginning in the school
12 year 2006-07, for any full-time teacher with a master's degree in an academic
13 teaching field and at least ten years' teaching experience in a public school or
14 combination of public schools, the minimum salary shall be thirty thousand
15 dollars; in the 2007-08 school year such minimum salary shall be thirty-one
16 thousand dollars; in the 2008-09 school year such minimum salary shall be
17 thirty-two thousand dollars; and in the 2009-10 school year such minimum salary
18 shall be thirty-three thousand dollars.]

19 2. Beginning with the budget requests for fiscal year 1991, the
20 commissioner of education shall present to the appropriate committees of the
21 general assembly information on the average Missouri teacher's salary, regional
22 average salary data, and national average salary data.

23 3. All school salary information shall be public information.

24 4. As used in this section, the term "salary" shall be defined as the salary
25 figure which appears on the teacher's contract and as determined by the local
26 school district's basic salary schedule and does not include supplements for extra
27 duties.

28 5. The minimum salary for any fully certificated teacher employed on a
29 less than full-time basis by a school district, state school for the severely
30 handicapped, the Missouri School for the Deaf, or the Missouri School for the

31 Blind shall be prorated to reflect the amounts provided in subsection 1 of this
32 section.

168.102. Sections 168.102 to 168.130 shall be known and may be cited as
2 the "Teacher Tenure Act" and shall become effective July 1, 1970, **and remain**
3 **in effect until June 30, 2012.**

168.221. 1. The first five years of employment of all teachers entering the
2 employment of the metropolitan school district **for teachers hired prior to**
3 **July 1, 2012**, shall be deemed a period of probation during which period all
4 appointments of teachers shall expire at the end of each school year. **Beginning**
5 **July 1, 2012, the provisions of sections 168.1000 to 168.1030 shall be in**
6 **effect in the metropolitan school district.** During the probationary period
7 any probationary teacher whose work is unsatisfactory shall be furnished by the
8 superintendent of schools with a written statement setting forth the nature of his
9 incompetency. If improvement satisfactory to the superintendent is not made
10 within one semester after the receipt of the statement, the probationary teacher
11 shall be dismissed. The semester granted the probationary teacher in which to
12 improve shall not in any case be a means of prolonging the probationary period
13 beyond five years and six months from the date on which the teacher entered the
14 employ of the board of education. The superintendent of schools on or before the
15 fifteenth day of April in each year shall notify probationary teachers who will not
16 be retained by the school district of the termination of their services. Any
17 probationary teacher who is not so notified shall be deemed to have been
18 appointed for the next school year. Any principal who prior to becoming a
19 principal had attained permanent employee status as a teacher shall upon
20 ceasing to be a principal have a right to resume his or her permanent teacher
21 position with the time served as a principal being treated as if such time had
22 been served as a teacher for the purpose of calculating seniority and pay
23 scale. The rights and duties and remuneration of a teacher who was formerly a
24 principal shall be the same as any other teacher with the same level of
25 qualifications and time of service.

26 2. After completion of satisfactory probationary services, appointments of
27 teachers shall become permanent, subject to removal for any one or more causes
28 herein described and to the right of the board to terminate the services of all who
29 attain the age of compulsory retirement fixed by the retirement system. In
30 determining the duration of the probationary period of employment in this section
31 specified, the time of service rendered as a substitute teacher shall not be
32 included.

33 3. No teacher whose appointment has become permanent may be removed

34 except for one or more of the following causes: immorality, inefficiency in line of
35 duty, violation of the published regulations of the school district, violation of the
36 laws of Missouri governing the public schools of the state, or physical or mental
37 condition which incapacitates him for instructing or associating with children,
38 and then only by a vote of not less than a majority of all the members of the
39 board, upon written charges presented by the superintendent of schools, to be
40 heard by the board after thirty days' notice, with copy of the charges served upon
41 the person against whom they are preferred, who shall have the privilege of being
42 present at the hearing, together with counsel, offering evidence and making
43 defense thereto. Notifications received by an employee during a vacation period
44 shall be considered as received on the first day of the school term following. At
45 the request of any person so charged the hearing shall be public. During any
46 time in which powers granted to the district's board of education are vested in a
47 special administrative board, the special administrative board may appoint a
48 hearing officer to conduct the hearing. The hearing officer shall conduct the
49 hearing as a contested case under chapter 536 and shall issue a written
50 recommendation to the board rendering the charges against the teacher. The
51 board shall render a decision on the charges upon the review of the hearing
52 officer's recommendations and the record from the hearing. The action and
53 decision of the board upon the charges shall be final. Pending the hearing of the
54 charges, the person charged may be suspended if the rules of the board so
55 prescribe, but in the event the board does not by a majority vote of all the
56 members remove the teacher upon charges presented by the superintendent, the
57 person shall not suffer any loss of salary by reason of the suspension. Inefficiency
58 in line of duty is cause for dismissal only after the teacher has been notified in
59 writing at least one semester prior to the presentment of charges against him by
60 the superintendent. The notification shall specify the nature of the inefficiency
61 with such particularity as to enable the teacher to be informed of the nature of
62 his inefficiency.

63 4. No teacher whose appointment has become permanent shall be demoted
64 nor shall his salary be reduced unless the same procedure is followed as herein
65 stated for the removal of the teacher because of inefficiency in line of duty, and
66 any teacher whose salary is reduced or who is demoted may waive the
67 presentment of charges against him by the superintendent and a hearing thereon
68 by the board. The foregoing provision shall apply only to permanent teachers
69 prior to the compulsory retirement age under the retirement system. Nothing
70 herein contained shall in any way restrict or limit the power of the board of
71 education to make reductions in the number of teachers or principals, or both,

72 because of insufficient funds, decrease in pupil enrollment, or abolition of
73 particular subjects or courses of instruction, except that the abolition of particular
74 subjects or courses of instruction shall not cause those teachers who have been
75 teaching the subjects or giving the courses of instruction to be placed on leave of
76 absence as herein provided who are qualified to teach other subjects or courses
77 of instruction, if positions are available for the teachers in the other subjects or
78 courses of instruction.

79 5. Whenever it is necessary to decrease the number of teachers because
80 of insufficient funds or a substantial decrease of pupil population within the
81 school district, the board of education upon recommendation of the
82 superintendent of schools may cause the necessary number of teachers beginning
83 with those serving probationary periods to be placed on leave of absence without
84 pay, but only in the inverse order of their appointment. Nothing herein stated
85 shall prevent a readjustment by the board of education of existing salary
86 schedules. No teacher placed on a leave of absence shall be precluded from
87 securing other employment during the period of the leave of absence. Each
88 teacher placed on leave of absence shall be reinstated in inverse order of his
89 placement on leave of absence. Such reemployment shall not result in a loss of
90 status or credit for previous years of service. No new appointments shall be made
91 while there are available teachers on leave of absence who are seventy years of
92 age or less and who are adequately qualified to fill the vacancy unless the
93 teachers fail to advise the superintendent of schools within thirty days from the
94 date of notification by the superintendent of schools that positions are available
95 to them that they will return to employment and will assume the duties of the
96 position to which appointed not later than the beginning of the school year next
97 following the date of the notice by the superintendent of schools.

98 6. If any regulation which deals with the promotion of teachers is
99 amended by increasing the qualifications necessary to be met before a teacher is
100 eligible for promotion, the amendment shall fix an effective date which shall allow
101 a reasonable length of time within which teachers may become qualified for
102 promotion under the regulations.

103 7. A teacher whose appointment has become permanent may give up the
104 right to a permanent appointment to participate in the teacher choice
105 compensation package under sections 168.745 to 168.750.

168.410. 1. School administrators and school district superintendents
2 shall be evaluated in the following manner:

3 (1) The board of education of each school district shall cause a
4 comprehensive performance-based evaluation for each administrator employed by

5 the district. Such evaluation shall be **at least annual**, ongoing, and of sufficient
6 specificity and frequency to provide for demonstrated standards of competency
7 and academic ability;

8 (2) All evaluations shall be maintained in the respective administrator's
9 personnel file at the office of the board of education of the school district. A copy
10 of each evaluation shall be provided to the person being evaluated and to the
11 appropriate administrator;

12 (3) The state department of elementary and secondary education shall
13 provide suggested procedures for the evaluations performed under this
14 section. **The Missouri administration standards professional continuum**
15 **shall form the basis for fifty percent of the score on an administrator's**
16 **evaluation.**

17 **2. Beginning July 1, 2012, evaluations of administrators and**
18 **superintendents shall contain a component that assesses the**
19 **performance of the instructional personnel for whom the administrator**
20 **or superintendent has supervisory capacity as a measure of the**
21 **administrator's or superintendent's instructional leadership. This**
22 **component shall constitute fifty percent of the evaluation. The board**
23 **of education of each school district shall develop standards and criteria**
24 **for such assessment similar to those suggested in sections 168.405 and**
25 **168.1026.**

168.1000. Sections 168.1000 to 168.1030 shall be known and may
2 **be cited as the "Teacher Continuing Contract Act" and shall become**
3 **effective July 1, 2012.**

168.1002. The following words and phrases when used in sections
2 **168.1000 to 168.1030, except in those instances where the context**
3 **indicates otherwise, mean:**

4 (1) "Board of education", the school board or board of directors
5 of a school district having general control of the affairs of the district;

6 (2) "Continuing contract", every contract entered into between
7 a school district and a teacher for two or more consecutive years;

8 (3) "Continuing contract teacher", any teacher as herein defined
9 who is employed on a contract whose length is two or more years;

10 (4) "Demotion", any reduction in salary or transfer to a position
11 carrying a lower salary, except on request of a teacher, other than any
12 change in salary applicable to all teachers or all teachers in a
13 classification;

14 (5) "Probationary contract", a one-year contract;

15 (6) "Probationary teacher", any teacher as herein defined who is
16 in the first year of employment or who is subsequently employed in the
17 same school district on a one-year contract and may be further defined
18 as follows in this subdivision. A novice probationary teacher is one
19 who is in his or her first year of teaching after achieving certification
20 under chapter 168. A transfer probationary teacher is in his or her
21 first year of teaching with the district. A teacher who has received a
22 one-year contract beginning on July 1, 2013, as a result of performance-
23 based evaluation shall be deemed a probationary teacher;

24 (7) "School district", every school district in this state;

25 (8) "Teacher", any employee of a school district regularly
26 required to be certified under laws relating to the certification of
27 teachers, except superintendents and assistant superintendents but
28 including certified teachers who teach at the prekindergarten level in
29 a seven-director or urban public school within a prekindergarten
30 program in which no fees are charged to parents or guardians.

168.1003. 1. All teachers who have tenure in a school district
2 under sections 168.102 to 168.130 or section 168.221 on July 1, 2012,
3 shall be placed by the district in which they are employed on that date
4 on probationary contracts. Teachers employed to begin work in the
5 district for the first time, whether as a novice teacher or a transfer
6 teacher, shall be placed on probationary contracts on July 1,
7 2012. During the 2012-2013 school year, each district shall administer
8 performance-based evaluations as required under section 168.1026 to
9 all teachers.

10 2. Beginning July 1, 2013, a novice probationary teacher entering
11 his or her first contract after attainment of certification shall be
12 granted a novice probationary contract to consist of two one-year
13 contracts, with the second year being conditional based on first-year
14 performance. Complete student performance data may not be available
15 in time for a full performance-based evaluation at the end of the novice
16 probationary teacher's first year; however, upon a successful evaluation
17 at the end of the first year based upon available data and the novice
18 probationary teacher's achievement on the professional continuum
19 under section 160.045, the novice probationary teacher may be granted
20 the second one-year contract.

21 3. Beginning July 1, 2013, a transfer probationary teacher may
22 be granted a two-year contract upon first being hired by the district if,

23 in the judgment of the hiring authority, the student performance data
24 from the teacher's previous district is sufficient to warrant a two-year
25 contract.

26 4. Beginning July 1, 2013, teachers who score in tier 1 under
27 section 168.1009 in the final year of their continuing contract shall
28 receive a subsequent continuing contract for a four-year period; those
29 who score in tier 2 shall receive a three-year continuing contract; those
30 who score in tier 3 shall receive a two-year continuing contract; those
31 who score in tier 4 shall receive a one-year contract, becoming
32 probationary teachers.

168.1004. The contract between a school district and a continuing
2 contract teacher shall be known as a continuing contract and shall
3 continue in effect for a period of two, three, or four years, subject to:

4 (1) Compulsory or optional retirement when the teacher reaches
5 the age of retirement provided by law, or regulation established by the
6 local board of education;

7 (2) The death of the teacher;

8 (3) Resignation of the teacher with the written consent of the
9 school board;

10 (4) Termination by the board of education;

11 (5) The revocation of the teacher's certificate; or

12 (6) Modifications under subsection 1 of section 168.1008.

168.1006. 1. Every contract whether probationary or continuing
2 shall contain the following provisions in substantially the following
3 form:

4 "It is hereby agreed by and between,
5 the teacher, and the Board of Education of School
6 District, the employer, that the teacher, beginning on the day of
7, 20....., shall serve in the employ of the Board of
8 Education and its successors for a term of months for an annual
9 compensation of \$, to be paid to the teacher in equal
10 installments according to local school board regulations less the
11 contributions required by law."

12 2. Every contract shall be:

13 (1) Made by the order of the board of education;

14 (2) In writing;

15 (3) Signed by the teacher and the president of the board of
16 education, or a facsimile signature of the president may be affixed at

17 his or her direction; and

18 (4) Attested by the secretary of the board of education by
19 signature or facsimile.

20 3. Nothing in the terms of a continuing contract shall restrict the
21 power of the board of education to terminate the continuing contract
22 for cause at any time.

23 4. The board of education shall not employ one of its members as
24 a teacher, nor shall any person be employed as a teacher who is related
25 within the fourth degree to any board member, either by consanguinity
26 or affinity, where the vote of the board member is necessary to the
27 selection of the person.

168.1008. 1. The board of education of a school district may
2 modify a continuing contract on or before the fifteenth day of May in
3 the following particulars:

4 (1) Determination of the date of beginning and length of the next
5 school year;

6 (2) Fixing the amount of annual compensation for the following
7 school year as provided by the salary schedule adopted by the board of
8 education applicable to all teachers, which schedule may contain
9 elements in addition to highest degree held and years of service as long
10 as such elements are equitably compensated among teachers covered
11 by those elements, which may include but are not limited to additional
12 areas of certification, certification in high-need subjects, additional
13 duty pay, and demonstrated ability to improve student learning
14 performance, including progress on a growth model;

15 (3) Utilizing information from teacher evaluations under section
16 168.1026, which may include longer contract lengths for teachers with
17 higher scores;

18 (4) Inclusion of performance pay increments, based on teacher
19 evaluation information.

20 2. The modifications shall be effective at the beginning of the
21 next school year. All teachers affected by the modification shall be
22 furnished written copies of the modifications within thirty days after
23 their adoption by the board of education.

168.1009. 1. This section shall become effective July 1, 2013.

2 2. Each school district shall use ninety percent of the total
3 annual base compensation for all teachers in the 2012-2013 school year
4 as the base year for the initial calculation of performance pay

5 increments. This amount shall be known as the modified teacher
6 budget. Districts may use the remaining ten percent and any
7 additional funds over the 2012-2013 base to address anomalies in the
8 schedule. Each subsequent year shall be based on ninety percent of the
9 previous year's total.

10 3. Each district shall rank-order its teachers by the totals of
11 their performance-based evaluation scores and their student
12 performance scores. In any instance in which two or more teachers
13 score the same on their total score, the teacher with the higher student
14 performance score shall rank above the teacher with the lower student
15 performance score. In any instance in which two teachers are ranked
16 the same, have the same student performance score, and the scores fall
17 at a tier break point, both teachers shall be ranked in the higher tier.

18 4. Each teacher ranked in the bottom thirty-three percent of
19 teachers shall be paid no less than the minimum salary required by
20 section 163.172. The teachers ranked at zero to thirty-three percent
21 shall constitute tier 4. The tier 4 teacher salary shall be an amount
22 calculated by dividing the modified teacher budget by 1.29584 times the
23 total teacher full-time equivalent number. Each teacher ranked in tier
24 3, from above thirty-three percent to sixty-six percent, shall receive an
25 increment of performance pay that is no less than a ten percent
26 increase over the tier 4 performance pay. Each teacher ranked in tier
27 2, from above sixty-six percent to eighty-three percent, shall receive an
28 increment of performance pay that is no less than a twenty-five percent
29 increase over the tier 3 pay. Each teacher ranked in tier 1, from above
30 eighty-three percent to one hundred percent, shall receive an increase
31 that is no less than a sixty percent increase over the tier 2 pay.

168.1010. A continuing contract between a continuing contract
2 teacher and a board of education may be terminated or modified at any
3 time by the mutual consent of the parties thereto. Any teacher who
4 desires to terminate his or her continuing contract at the end of a
5 school term shall give written notice of his or her intention to do so
6 and the reasons therefor not later than June first of the year in which
7 the term ends.

168.1012. 1. A contract may be terminated by the board of
2 education of a school district for one or more of the following causes:

3 (1) Unsatisfactory performance based on the teacher evaluation
4 under section 168.1026;

5 (2) Physical or mental condition unfitting him or her to instruct
6 or associate with children;

7 (3) Immoral conduct;

8 (4) Willful or persistent violation of, or failure to obey, the school
9 laws of the state or the published regulations of the board of education
10 of the school district employing him or her or insubordination in the
11 line of duty;

12 (5) Excessive or unreasonable absence from performance of
13 duties; or

14 (6) Conviction of a felony or a crime involving moral turpitude.

15 2. In determining the professional competency or efficiency of a
16 continuing contract teacher, consideration shall be given to regular
17 and special evaluation reports prepared in accordance with the policy
18 of the employing school district and to any written standards of
19 performance which have been adopted by the school board under
20 sections 160.045 and 168.1026.

168.1020. A board of education may establish policies for
2 granting a leave of absence including but not limited to sabbatical
3 leave, maternity leave, sick leave, and military leave. The board of
4 education of a school district may, upon the written request of a
5 teacher, and for good cause shown, grant a leave of absence or place
6 him or her on a part-time teaching schedule for a period of one year,
7 subject to renewal from year to year. Leaves and military service shall
8 not impair the continuing contract previously acquired by a teacher
9 under sections 168.1000 to 168.1030. Any teacher under sections
10 168.1000 to 168.1030 who is called into active military service with the
11 armed forces of the United States is eligible for reinstatement upon his
12 or her discharge from service without loss of the teacher's continuing
13 contract.

168.1022. 1. The board of education of a school district may place
2 on leave of absence as many teachers as may be necessary because of
3 a decrease in pupil enrollment, school district reorganization or the
4 financial condition of the school district.

5 2. Teachers may be reinstated to the positions from which they
6 have been given leaves of absence, or if the positions are not available,
7 to positions requiring like training and experience, or to other
8 positions in the school system for which they are qualified by training
9 and experience.

10 3. A teacher placed on leave of absence may engage in teaching
11 or another occupation during the period of such leave.

12 4. The leave of absence shall not impair the continuing contract
13 of a teacher.

14 5. The leave of absence shall continue for a period of not more
15 than two years unless extended by the board.

16 6. If a board of education chooses to reduce its teacher forces as
17 provided in subsection 1 of this section in an attempt to manage
18 adverse financial conditions caused at least partially by a withholding
19 of, or a decrease or less than expected increase in, education
20 appropriations, then the district additionally shall follow the
21 provisions of subsection 7 of this section.

22 7. If a school district has an unrestricted combined ending fund
23 balance of more than ten percent of current expenditures in its
24 teachers' and incidental funds, and in the subsequent fiscal year such
25 district, because of state appropriations, places a teacher on leave of
26 absence after forty days subsequent to the governor signing the
27 elementary and secondary education appropriation bill, the district
28 shall pay the affected teacher the greater of his or her salary for any
29 days worked under the contract, or a sum equal to three thousand
30 dollars.

168.1026. 1. The board of education of each school district shall
2 maintain records showing periods of service, dates of appointment, and
3 other necessary information for the enforcement of sections 168.1000 to
4 168.1030.

5 2. In addition, the board of education of each school district shall
6 cause a comprehensive, performance-based evaluation for each teacher
7 employed by the district at least annually. Fifty percent of a teacher's
8 evaluation shall be based on the performance of students for whom the
9 teacher has responsibility and fifty percent on teaching standards
10 developed by the district under section 160.045. No more than forty
11 percent of a building's teachers shall receive a standards-based score
12 in the top thirty-three percent.

13 3. All teachers shall be evaluated regularly and shall be
14 evaluated at least twice annually in the final year of their continuing
15 contract by a qualified administrator, who may be an employee of
16 another accredited district. Nothing in this subsection shall be
17 construed to prohibit more frequent evaluation if a district's policy

18 permits it. Advance notice of evaluations shall not be given.

19 4. All evaluations shall be maintained in the teacher's personnel
20 file at the office of the board of education. A copy of each evaluation
21 shall be provided to the teacher and appropriate administrator.

22 5. The state department of elementary and secondary education
23 shall develop suggested procedures and models for student
24 performance evaluations, including suggestions for evaluation of
25 student performance that may be equitably applied to certificated
26 teachers who are not assigned to a classroom, whose classroom
27 assignment may involve students who chronically score significantly
28 above or below proficient performance, or who otherwise lack
29 evaluation instruments specific to their assignments.

 168.1028. No member of a board of education or duly designated
2 administrative officer of a board of education shall be liable in a civil
3 action based on a statement of charges against a school teacher.

 168.1030. No teacher shall take part in the management of a
2 campaign for the election or defeat of members of a board of education
3 by which he or she is employed. Any teacher who violates the
4 provisions of this section shall be subject to termination of his or her
5 employment by the district with the right of a hearing as heretofore
6 provided.

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